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Selectmen's Minutes

June 14, 2004

7:00 P.M.

Present, F. Dore' Hunter, Peter Ashton, Robert Johnson, Walter Foster, Town Manager and Assistant Town Manager. Meeting was televised.

CITIZEN'S CONCERNS

Sean Anestis – 344 Mass Ave. Wanted to express his interest in the parcel abutting his property on Mass Ave, and the possible purchase if Habitat finds that they can't use it. He has asked several times about the potential purchase of this land and has not gotten a reply to his request either way.

Special Recognition, Beth Petr and Assistants, Support of US Troops in Iraq. The group gave a presentation to the Board regarding their project and life in Iraq for the American soldiers. Peter Ashton presented the group with four bags of ingredients to make Somore's for the soldiers.

SPECIAL EXECUTIVE SESSION

7:10 p.m. The Special Executive Session was cancelled because the subject of the session failed to appear.

SEWER COMMISSIONER'S REPORT

APPROVAL OF THE FY05 O&M RATES FOR SEWERS PETER ASHTON – Moved to approve rates as contained in memo for FY05. BOB JOHNSON, Second. UNANIMOUS VOTE.

PUBLIC HEARINGS & APPOINTMENTS

ACTON INDOOR SPORTS SPECIAL PERMIT 04/20/04-397, 30 GREAT ROAD/L KEEFE ROAD. Mr. McLaughlin explained the situation and answered Board's questions. Peter suggested the bridge be enlarged. He also felt it is important that their servers go through the Tips program and to adhere to their Liquor Serving Policy at all times.

Mr. Clementz asked about the Board's involvement with the facility. Peter and Walter noted that they drop their children off there but do not personally use the facility. He further complained about the trash and the lighting issue. WALTER FOSTER - Move to take under advisement and close the Hearing. BOB JOHNSON. UNANIMOUS VOTE

WALTER FOSTER - Move we close the hearing and grant the Common Victualler License and Full Alcoholic Beverage License as a Restaurant with the hours of Alcohol service between 6:00 P.M. and Midnight. BOB JOHNSON – Second. UNANIMOUS VOTE.

SITE PLAN SPECIAL PERMIT #04/30/04-398, RAIL ROAD REALTY TRUST, 19 RAIL ROAD STREET – WALTER FOSTER- Moved to continue to August. BOB JOHNSON – Second. UNANIMOUS VOTE

SITE PLAN SPECIAL PERMIT, #03/09/04-396, MARGARET NAZZARO, 253 ARLINGTON – BOB JOHNSON - Moved to continue the hearing until July. WALTER FOSTER – Second. UNANIMOUS VOTE

COMMITTEE INTERVIEW, PLANNING BOARD ELEVATION TO FULL MEMBER - Stacy Rogers has asked to be elevated to a full member ship on the Planning Board. Peter asked about duration of her service and her attendance at a Shared Resources meeting of MAGIC.

Walter asked about the Planning Board's challenges for the upcoming year. She said they have several issues to address. He asked her what is not working in the Town of Acton regarding committees and Boards. Dore' asked about her involvement with something outside the Planning Board, and working on an effort to deny an issue. He cautioned her to look at how things are perceived. WALTER FOSTER – Moved to appoint Stacy Rogers as a full member with a term to expire 6/30/2009. BOB JOHNSON – Second. UNANIMOUS VOTE.

LIQUOR LICENSE TRANSFER – POWDER MILL ROAD -LEO PIRO – PETER ASHTON – Moved to approve application of transfer of liquor license from Leo Piro to Role Corporation and Pledge the license to Enterprise Bank. WALTER FOSTER – Second. UNANIMOUS VOTE

COMMITTEE INTERVIEW – VOLUNTEER COORDINATING COMMITTEE - Mr. Bruschi for membership on VCC. Peter asked him to give thought as to how to reach out side to the community for volunteers. He will use his computer skills to help VCC with paperwork and such. The Board was pleased to hear he was able to use a computer for Emails and other tasks.

BOB JOHNSON – Moved to appoint Mr. Giorgio Bruschi to a three year term on the VCC. PETER ASHTON – Second. UNANIMOUS VOTE.

WILLIAM KING - PLANNING BOARD ASSOCIATE. - He said he has been on the Maynard Planning Board and also served as a Selectman. He was involved in the legislation that has become CPA. PETER ASHTON - Moved to approve Associate Member with a term to expire June 30, 2005. BOB JOHNSON – Second. UNANIMOUS VOTE

CPC – Dore' spoke about the success of the program. Chairman Peter Berry and Vice Chair Catherine Coleman were present to discuss their plans for the future with regard to the projects they have funded and will have a new plan ready to go by September. Dore' cautioned the use of CPA Monies for advertising. He urged that the policies be written for use by them and applicants.

Bob congratulated them on the success of the Program. He wanted to know about the responsibility for implementation. He asked what their job would be in Grants. They feel very strongly that we need to be informed and most recent the Skate Park. He wanted

to know what is going so that they can address issues. It's a growing process and we are still working through. Bob wanted to know when bids will go out for projects.

Peter noted the great job they performed, Peter asked about how much funding was available they replied 1 million.

Walter spoke about this financial benefit to the Town and was concerned about the "Raiding of the Fund"

There was discussion regarding the advertising of the program. Dore' was concerned about perception of use of funds. He felt that we should take a look at it and try to be careful what is said by people who don't know what they are talking about.

Jon Chinitz as a private citizen wanted to thank the CPC for their work. He was concerned about asking the applicant to do more. He noted the work at the school and noted the changes from 3 floors, now 2 stories. He noted that he did not like the signs suggestion. The will look into what can be recommended.

FIVE YEAR CAPITAL PLAN – Don reviewed the information and there are some mistakes but they will work it out. They have made changes. Peter spoke about 2006 tri annual certification of values and it needs to be on there and be funded.

They have approved the plan and bring it to 2020.

MAKAHA LIQUOR LICENSE HEARING – The Board will address this at their meeting of July 12, 2004 when their attorney has had a chance to acquire the file from there previous counsel.

SELECTMEN'S BUSINESS

WOODLANDS AT LAUREL HILL – Suggest staff write a letter and indicate that there are issues about water and sewer. Walter noted it straddles two towns. Staff will be meeting with staff from Westford to discuss this issue.

DONELAN'S FIREWORKS CONTRIBUTION. PETER ASHTON – Move to send letter to Donelan's for their very generous contribution, the letter to be signed by each Selectman. BOB JOHNSON – Second. UNANIMOUS VOTE

AMEND SPECIAL PERMIT #04/07/03-391 – They propose no expansion of the interior space, no additional buildings. WALTER FOSTER - Move we approve the amendment as presented by the Building Commissioner with use as indicated in the Memo. PETER ASHTON - Moved to approve. WALTER FOSTER – second. UNANIMOUS VOTE.

AMEND SITE PLAN SPECIAL PERMIT #10/09/03-394, BROOKSIDE SHOPS, GREAT ROAD – PETER ASHTON - Moved to take no action on request to amend 1-19 Maple Street pending outcome of litigation. BOB JOHNSON – second. UNANIMOUS VOTE

OLAC – There was concern over whether the Building Commissioner was comfortable with this issue. Walter asked about the Goals of the committee and asked that they review them. It was noted that we might have them to call upon but not to be a full committee. Get comment from Garry and Trey and discuss it at a later meeting when Trey could be present,'

AMEND SITE PLAN SPECIAL PERMIT #07/26/00-372, BROOKSIDE SHOPS, 145 GREAT ROAD – Peter said that he has been talking with Garry about this issue. He thinks this solves the problem at that drive way by amending the plan. PETER ASHTON - Moved to amend site plan decision as proposed in the words of Garry Rhodes memo. Dated June 7, 2004. BOB JOHNSON - second. UNANIMOUS VOTE *(Clerk to Append the minutes with the memo and Fax cover sheet)*

OTHER BUSINESS

Dore' discussed the way Lincoln holds meetings with the citizens to discuss upcoming issues. Peter thinks it is a good idea and has personal connection in Lincoln who says it works well and it educates the townspeople of what issues are coming down the road. They include departments to create a dialogue. It was noted that Acton's size might be problematic.

Bob spoke about the meeting they held last year, and suggested the LWV be contacted.

Peter volunteered to meet further with his friend in Lincoln. He was asked to gather more information.

Dore' reported on CAC meeting.

Peter reminded the Board about 2020 meeting Wednesday to discuss the Capital plan

CONSENT AGENDA

PETER ASHTON – Moved to approve. – BOB JOHNSON - Second. UNANIMOUS VOTE

O'Natural and Minutes. 24 and 31 held. Christine to amend minutes. Selectmen wanted to inform the neighborhood about the request for 7:00 a.m. opening.

PETER ASHTON - Move we have a public meeting on July 12 with abutters notified by the proponent to discuss the request to open at 7:00 for Breakfast – BOB JOHNSON – Second. UNANIMOUS VOTE

Mac Macabe of O'Natural's was present to explain why they were coming in for an earlier opening. He noted that the diners have asked for Breakfast. They have a few groups of mothers that meet there after dropping of their school age children for coffee and have asked about breakfast to go with their coffee.

PETER ASHTON - Moved to approve ACTON INDOOR SPORTS SPECIAL PERMIT 04/20/04-397, 30 Great Road /1 Keefe Road. BOB JOHNSON – second. UNANIMOUS VOTE

TOWN MANAGER'S REPORT

EXECUTIVE SESSION

BOB JOHNSON – Move to go into Executive Session for the purpose of discussing legal strategy. PETER ASHTON – Second. All AYES

Christine Joyce
Recording Clerk

Clerk

Date

6/14/04 - (20)

TOWN OF ACTON

Building Department

INTERDEPARTMENTAL COMMUNICATION

To: Board of Selectmen Date: June 7, 2004
From: Garry A. Rhodes, Building Commissioner
Subject: Violations of traffic circulation
Brookside Shops 145 Great Road

The circulation of traffic at the Brookside Shops continues to be a problem. I have notified Brookside Shops on four occasions of violations observed. I have discussed the problem at length with Mr. Levine. I have suggested to him a possible solution and he appears to be amendable.

I have suggested a two prong attack. I have suggested to him that a gate be installed on the end of the service road closest to Esterbrook Road. The gate would open by an electronic eye or push button. In either case it would open from the mall side only.

The second aspect of enforcement would be for the mall to request the enforcement of the traffic signage by the Acton Police Department. The mall would need to request the signs be adopted into the traffic rules and orders as provided in MGL C40 § 18.

I am bringing this to your attention because in both cases I feel the possible solutions would require the Board to amend the Site Plan Special Permit. I have attached a draft decision for your consideration.

Currently the Decision has two sections that would in my opinion need to be amended. I have underlined the additions and indicated the areas deleted. They are as follows;

- 5.) The principal entrance and exit for customers to the development will be from Great Road. There will be a secondary access for service trucks, employee parking and future access to gifted land (finding #12 and condition #2.8) from Great Road, running behind the building and exiting on Esterbrook Road. The BOARD finds that the service driveway, if used as designed, will help to prevent conflicts between service truck traffic and customer traffic on site and will minimize traffic exiting the site and going east on Esterbrook. In order to insure the service road is used as designed (one-way) the applicant shall place an automated gate activated by electronic eye or push button. The gate shall be located on the Esterbrook end of the service road and as approved by the Building Commissioner and shall be so located to allow vehicles to turn around if they happen to be traveling east on Esterbrook Road trying to enter the mall. In order to mitigate any adverse impact of deliveries and trash pick-up the BOARD finds that it is necessary and appropriate to prohibit deliveries and trash pick-up before 6:30 AM or after 10:00 PM. This condition shall be included in all leases for space in the mall hereafter entered into. In addition, the BOARD requires additional signage at the entrance of the service road indicating that it is not a mall access, but can be used only by employees and deliveries or access as provided in condition 2.3.

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- 2.3) Deliveries including trash pickup shall be prohibited before 6:30 AM and after 10 PM. The lease of each tenant shall include a clause prohibiting deliveries and trash-pick-up before 6:30 AM and after 10 PM. A directional sign, not to exceed 12 square feet, shall be installed at the service entrance as provided in finding five. The gate shall be installed within 60 days of the date of this amendment and the expiration without appeal of any appeal period. The applicant shall also request the Board of Selectmen accept the traffic control signage into the "Traffic Rules and Orders" as provided in MGL C90 §18 within 45 days of the date of this amendment and the expiration without appeal of any appeal period. The Building Commissioner as enforcement official of the Decision shall find that if the gate is operational and the applicant has requested the Board of Selectmen to accept the directional signage as aforesaid, and previous use of the rear service entrance/driveway are not zoning violations and any future use of the rear service entrance/driveway shall not be zoning violations so long as the Applicant maintains the gate directional signage and future leases contain limitations as to hours of usage, all as aforesaid.

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**D'AGOSTINE, LEVINE, PARRA & NETBURN, P.C.***Attorneys at Law*

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FAX COVER SHEET

To: Garry Rhodes Fax #: 978-264-9630
Acton Building Department

cc: Ross Hamlin 9-1-603-726-7329

From: F. Alex Parra, Esq./um Date: June 11, 2004

Subject: 145 Great Road, Acton Pages: 1 (including cover sheet)
Brookside Shops

☐ Please review and contact me ☐ For your information ☐ I will contact you to discuss ☐ Original in mail to you

COMMENTS:

This will confirm that if the Selectmen adopt the revisions to the special permit proposed in your memo of June 7, 2004, with the modifications faxed to you June 10, 2004, and the zoning violations are withdrawn, the appeal to the Board of Appeals will be withdrawn and the amendment to the Special Permit will be accepted by our client.

The information contained in this communication is confidential, may be attorney-client privileged and is intended only for the use of the addressee. Unauthorized use, disclosure or copying is strictly prohibited. If you have received this communication in error, please notify us by telephone immediately so that we can arrange for the retrieval of the documents at no cost to you. If the transmission is incomplete or illegible, please call immediately.

June 11, 2004

TO: Board of Selectmen, Sewer Commissioners

FROM: F. Dore' Hunter, Chairman

SUBJECT: Selectmen and Sewer Commissioners Report

June 14, 2004
MEETING BEGINS AT 7:00 P.M.

I CITIZEN'S CONCERNS

1. 7:00 **SPECIAL RECOGNITION, BETH PETR AND ASSISTANTS** – Enclosed please find materials in the subject regard. The Board will take a moment at the beginning of the meeting to recognize the work being done by Ms. Petr and those who assist her, in support of U. S. Troops in Iraq.

II SPECIAL EXECUTIVE SESSION

2. 7:05 **THERE WILL BE A NEED FOR A SPECIAL EXECUTIVE SESSION --** Enclosed please find confidential materials in the subject regard.

III SEWER COMMISSIONERS' BUSINESS

3. **APPROVAL OF FY05 O&M RATES FOR SEWERS** – Enclosed please find materials in the subject regard, for Board consideration.

IV PUBLIC HEARINGS & APPOINTMENTS

4. 7:15 **SPECIAL PERMIT #04/20/04-397, ACTON INDOOR SPORTS, 30 GREAT ROAD/1 KEEFE ROAD** – Enclosed please find materials in the subject regard, for Board consideration.
5. 7:20 **COMMON VICTUALLER'S LICENSE AND FULL LIQUOR LICENSE, ACTON INDOOR SPORTS, 30 GREAT ROAD/1 KEEFE ROAD (Continued from previous meetings)** – Enclosed please find materials in the subject regard, for Board consideration.
6. 7:30 **SITE PLAN SPECIAL PERMIT, #04/30/04-398 RAILROAD REALTY TRUST, 19 RAIL ROAD STREET --** Enclosed please find a request from the applicant to have the hearing continued to August, for Board consideration.
7. 7:45 **SITE PLAN SPECIAL PERMIT, #03/09/04-396, MARGARET NAZZARO, 253 ARLINGTON STREET (Continued from previous meetings)** – Enclosed please find a request from the applicant to have the hearing continued to July, for Board consideration.

8. 8:00 **COMMITTEE INTERVIEW, STACY ROGERS, FULL MEMBER OF THE PLANNING BOARD** – Enclosed please find Ms. Rogers' VCC Application, for Board consideration.
9. 8:15 **ROLE CORPORATION, 18 POWER MILL ROAD, FULL PACKAGE STORE TRANSFER AND PLEDGE TO BANK**– Enclosed please find materials for the Transfer and Pledge of License from Leo Piro to Role Corp., for Board consideration.
10. 8:30 **COMMITTEE INTERVIEW, GIORGIO BRUSCHI, FULL MEMBER OF THE VCC** -- Enclosed please find Mr. Bruschi's VCC application and recommendation from VCC for his appointment to the VCC, for Board consideration.
11. 8:40 **COMMITTEE INTERVIEW, WILLIAM KING, ASSOCIATE MEMBER OF THE PLANNING BOARD** -- Enclosed please find Mr. King's VCC application and the recommendation from the VCC for his appointment as an Associate Member of the Planning Board, for Board consideration.
12. 8:45 **COMMUNITY PRESERVATION COMMITTEE (CPC) OVERSIGHT MEETING** – Enclosed please find materials in the subject regard.
13. 9:00 **MAKAHA LIQUOR LICENSE HEARING** – Enclosed please find materials in the subject regard, for Board consideration.

V SELECTMEN'S BUSINESS

14. **DRAFT 5-YEAR CAPITAL PLAN** – Enclosed please find the Town Manager's recommendations for the 5-Year Capital Plan, based on submissions from Board Members, for Board consideration.
15. **AMEND SPECIAL USE PERMIT #04/07/03-391, 2 CRAIG ROAD** – Enclosed please find a request to amend the current Site Plan Approval, along with comments from the Building Commissioner, for Board consideration.
16. **AMEND SITE PLAN SPECIAL PERMIT #10/09/03-394, 1 & 19 MAPLE STREET** – Enclosed please find a request to amend the subject Site Plan Application, along with the recommendation of the Building Commissioner, for Board consideration.
17. **OUTDOOR LIGHTING ADVISORY COMMITTEE (OLAC), REQUEST TO EXTEND TERM** – Enclosed please find a request from OLAC to have the term of the committee extended, for Board consideration.
18. **THE WOODLANDS AT LAUREL HILL** – Enclosed please find correspondence from MassDevelopment, for Board consideration.
19. **MUNICIPAL ADVOCATE ARTICLE** – Enclosed please find an excerpt from the "Municipal Advocate" for Board discussion and consideration.
20. **AMEND SITE PLAN SPECIAL PERMIT #07/26/00-372 AND SPECIAL USE PERMIT #08/25/00-373 REVISED, TASHMOO COVE REALTY (BROOKSIDE SHOPS)** – Enclosed please find materials from the Building Commissioner in the subject regard, for Board consideration.

21. **DONELANS SUPERMARKET DONATION FOR 4TH OF JULY FIREWORKS –**
Enclosed please find notice of Donelans' generous donation for Board acceptance, along with correspondence from Selectman Foster, for Board consideration.
22. **MORRISON PROPERTY PLANNING COMMITTEE –** Enclosed please find a memo in the subject regard from the Town Manager, for Board consideration.
23. **OTHER BUSINESS**

VI CONSENT AGENDA

24. **ACCEPT MINUTES –** Enclosed please find copies of the May 10, 2004 Minutes for Board consideration.
25. **EDIC APPOINTMENTS –** Enclosed please find the recommendations of the interview panel for appointments to the EDIC, for Board consideration.
26. **KEYSPAN DONATION –** Enclosed please find a request for acceptance of the temporary donation of several Compressed Natural Gas Vehicles for Town Staff to test and evaluate, for Board consideration.
27. **NARA FEE WAIVER REQUEST –** Enclosed please find a confidential request for a fee waiver for the NARA Youth Summer Program for Board consideration.
28. **NARA FEE WAIVER REQUEST –** Enclosed please find a confidential request for a fee waiver for the NARA Youth Summer Program and reduced family Beach membership, for Board consideration.
29. **NARA FEE WAIVER REQUEST –** Enclosed please find a confidential request to pay the reduced "Early Bird" fee for a family Beach membership at NARA, for Board consideration.
30. **ONE DAY LIQUOR LICENSE REQUEST AT NARA PARK, OLD GOLD RUGBY –**
Enclosed please find a request for a One Day Liquor License in conjunction with the Rugby Tournament on July 10, 2004, for Board consideration.
31. **COMMON VICTUALLER'S LICENSE AMENDMENT, O'NATURALS --** Enclosed please find a request to modify the hours of operation under the subject license, for Board consideration.
32. **SQUIRREL HILL DRAINAGE AGREEMENT –** Enclosed please find materials in the subject regard, for Board consideration.
33. **COMMITTEE APPOINTMENT, COUNCIL ON AGING, SALLY THOMPSON –** Enclosed please find Ms. Thompson's VCC application, along with the VCC's recommendation for appointment as a member of the Council on Aging for a term to expire, June 30, 2005, for Board consideration.
34. **BORROWING APPROVAL –** Enclosed please find correspondence concerning the proposed plans for borrowing for the Douglas School Heating System, for Board consideration.

VII TOWN MANAGER'S REPORT

VIII EXECUTIVE SESSION

35. **THERE WILL BE A NEED FOR AN EXECUTIVE SESSION** – Enclosed please find confidential materials in the subject regard.

ADDITIONAL INFORMATION

Enclosed please find additional correspondence that is strictly informational and requires no Board action.

FUTURE AGENDAS

To facilitate scheduling for interested parties, the following items are scheduled for discussion on future agendas. This IS NOT a complete Agenda.

July 12 – Commission on Disability (Transportation Issues) Annual Committee Reappointments
August 16
Sept. 13, 27
Oct. 18

GOALS 2004-2005

1. Establish Protocol for Manager and Supt. of Schools to confer weekly to improve liaison (Dore')
2. Produce Morrison Farm Development Master Plan (Bob/Walter)
3. Improving Intra Board Communication (Dore')

GOALS carried forward

4. Monitor Labor Negotiations (Peter/Trey)
5. Improve Communication with Town Boards (ALL)
6. Revisit 2020 planning process for direction to make this process more beneficial towards implementation of long-term vision, and to get a first rough cut of what happens next year before school is out for the summer (Trey/Peter)
7. ALG process be used for purpose of Budget Planning for FY05 (Dore'/Peter)
8. Process Planning for "Life after NESWC" (Bob)
9. Joint IT process-organizational change (Walter/Dore')
10. Middlesex Pension Alternatives (Walter/Trey)